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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

DEC 03 2004

MARC SPITZER, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

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IN THE MATTER OF THE APPLICATION OF ARIZONA WATER COMPANY, AN ARIZONA CORPORATION, TO EXTEND ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY IN COOLIDGE, PINAL COUNTY, ARIZONA.

DOCKET NO. W-01445A-04-0453

DECISION NO. 67439

OPINION AND ORDER

DATE OF HEARING:

September 22, 2004

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Amanda Pope

APPEARANCES:

Robert Geake, Vice President and General Counsel, on behalf of Arizona Water Company; and

David Ronald, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On June 16, 2004, Arizona Water Company ("AWC" or "Applicant"), filed an application for an extension of its Certificate of Convenience and Necessity ("Certificate" or "CC&N") with the Arizona Corporation Commission ("Commission") to provide public water utility service to various parcels in Coolidge, Pinal County, Arizona ("Application").

On July 15, 2004, the Commission's Utilities Division Staff ("Staff") filed a letter indicating that AWC's Application had met the sufficiency requirements set forth in the Arizona Administrative Code.

By Procedural Order dated July 16, 2004, a hearing was scheduled for September 22, 2004 and other dates were set for publication and service of notice and procedural filing by parties to the proceeding.

On August 30, 2004, AWC filed a Certificate of Publication, which indicates that on July 21,

1 2004, public notice of the hearing was mailed to all property owners in the proposed expansion area,
2 and notice of the hearing was published in the *Coolidge Examiner* on August 18, 2004.

3 On August 30, 2004, Staff filed a Staff Report recommending approval of the Application
4 subject to certain conditions.

5 On September 22, 2004, a full public hearing was convened before a duly authorized
6 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. AWC and Staff
7 appeared with counsel. No members of the public appeared to provide public comment.

8 At the conclusion of the hearing, the matter was taken under advisement pending submission
9 of a Recommended Opinion and Order to the Commission.

10 * * * * *

11 Having considered the entire record herein and being fully advised in the premises, the
12 Commission finds, concludes, and orders that:

13 **FINDINGS OF FACT**

14 1. AWC is an Arizona corporation which is engaged in the business of providing water
15 service to approximately 67,000 customers in portions of Gila, Navajo, Cochise, Maricopa, Pima,
16 Yavapai, Coconino and Pinal Counties in Arizona. AWC was granted its Certificate in Decision No.
17 28794 (March 1955).

18 2. On June 16, 2004, AWC filed an Application for an extension of its certificated
19 system in Coolidge, Arizona to provide service to three parcels, each being contiguous to AWC's
20 certificated service area, totaling four and one half square miles, which is more accurately described
21 in Exhibit A, which is attached hereto and incorporated herein by reference.

22 3. On July 16, 2004, a Procedural Order was issued setting this matter for hearing on
23 September 22, 2004 and setting various procedural deadlines.

24 4. On August 30, 2004, AWC filed a Certificate of Publication indicating that on July 21,
25 2004, all property owners in the proposed extension area were mailed notice of the Application and
26 hearing date and that notice of the hearing was published in the *Coolidge Examiner* on August 18,
27 2004.

28 5. No intervention requests or objections to the Application were filed.

1 6. On August 30, 2004, the Commission's Utilities Division Staff ("Staff") filed a Staff
2 Report in this matter recommending conditional approval of the Application. Specifically, Staff
3 recommended: (1) that AWC charge its existing rates and charges in the proposed extension area; (2)
4 that AWC file with Docket Control the main extension agreement associated with the proposed
5 extension area within 365 days of the effective date of any Decision in this matter; (3) that AWC file
6 with Docket Control a copy of the ADEQ Certificate of Approval to Construct within 365 days of the
7 effective date of any Decision in this matter; and (4) that AWC file a copy of the developer's
8 Certificate of Assured Water Supply, where applicable or when required by statute, within 365 days
9 of the effective date of any Decision in this matter.

10 7. Staff further recommended that the Commission's Decision granting the extension to
11 AWC's Certificate be considered null and void without further order of the Commission should
12 AWC fail to meet the above conditions within the time specified.

13 8. The hearing was held as scheduled on September 22, 2004. Michael J. Whitehead
14 testified on behalf of AWC, and Jim Fisher testified on behalf of Staff.

15 9. Mr. Whitehead testified that the total area for which AWC is seeking an extension of
16 its CC&N is comprised of three separate parcels: (1) parcel no. 1 occupies the southern half of
17 Section 12 and the northwest quarter of Section 13, Township 5 south , Range 8 east ("Parcel 1"); (2)
18 parcel no. 2 occupies Sections 9 and 10, Township 5 south, Range 8 east ("Parcel 2"); and (3) parcel
19 no. 3 occupies Sections 6 and 7, Township 6 south, Range 8 east ("Parcel 3").

20 10. Parcels 1 and 2 are adjacent to the northern boundary, and Parcel 3 is adjacent to the
21 southwestern boundary, of AWC's existing Coolidge CC&N.

22 11. Mr. Whitehead testified that AWC has received a request from Omega Management
23 Services, Inc. to provide water service to Parcel 3, which will ultimately be developed into a master
24 planned community with 5,000 residential units to be known as "Cole Farms."

25 12. Mr. Whitehead testified that development of Cole Farms will require the drilling of
26 approximately 5 new wells, each with an anticipated production of 700 gallons per minute, and the
27 implementation of approximately 2 million gallons of storage and installation of 3 to 5
28 hydropneumatic systems at the well/tank sites. Mr. Whitehead further testified that these facilities

1 will be financed primarily with advances in aid of construction.

2 13. Development and completion of Cole Farms will, however, extend beyond the five
3 year period during which AWC estimates an additional 50 customers for the total proposed extension
4 area and will not, therefore, impact AWC's ability to provide service to the additional customers
5 based upon its existing system.

6 14. Mr. Whitehead further testified that AWC has also received a request from Mr. Everett
7 Lee to provide water service to Parcel 1, by which service will be provided to a yet to be developed
8 trailer court.

9 15. Mr. Whitehead testified that Mr. Lee's property will be served by installing a 12 inch
10 pipeline to connect to AWC's existing pipeline at Vah Ki Inn Road.

11 16. AWC seeks to expand its certificate to include Parcel 2 as it currently serves a San
12 Carlos Irrigation and Power relay station within that area.

13 17. According to Staff and Mr. Whitehead, AWC's existing Coolidge system currently
14 serves approximately 3,138 customers.¹

15 18. In its Staff Report, Staff indicates that with four wells, AWC's Coolidge system can
16 accommodate approximately 1,150 additional connections.

17 19. Staff and Mr. Whitehead testified that AWC's existing facilities are adequate to serve
18 the estimated five year growth within the area sought to be certificated herein.

19 20. The U.S. Environmental Protection Agency ("EPA") has reduced the arsenic
20 maximum containment level ("MCL") in drinking water from 50 micrograms per liter ("µg/l") to 10
21 µg/l. The date for compliance with the new MCL is January 23, 2006.

22 21. Staff indicated, and Mr. Whitehead testified, that the existing wells in the Coolidge
23 system meet the new arsenic MCL.

24 22. AWC has provided notice of the Application and the hearing thereon pursuant to the
25 July 16, 2004 Procedural Order.

26 23. Mr. Whitehead testified that AWC's curtailment tariff has been filed with and is
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28 ¹ At the hearing, Staff testified that the Staff Report should be amended to reflect that only 3,138 customers, rather than 4,365, are currently served by the existing Coolidge system.

1 pending approval from the Commission.

2 24. AWC has the necessary Pinal County franchise for the area described in Exhibit A.

3 25. There are no other public service corporations or municipally owned water systems
4 authorized to provide or providing water service in the area requested to be certified herein.

5 26. AWC is current on its filings with the Commission.

6 27. Mr. Whitehead testified that AWC is current on the payment of its property and sales
7 taxes.

8 28. AWC is in full compliance with the requirements of Arizona Department of
9 Environmental Quality and is delivering water that meets the water quality standards of the Safe
10 Drinking Water Act.

11 29. AWC is within the Arizona Department of Water Resources ("ADWR") Pinal Active
12 Management Area and is in compliance with ADWR's reporting and conservation rules.

13 30. AWC has indicated that it will charge its existing Coolidge rates and charges to
14 customers in the area described in Exhibit A.²

15 31. Staff testified that approval of the Application would serve the public interest.

16 32. At the October 26, 2004 Open Meeting, the Commissioners raised questions relating
17 to the manner in which sewer service would be provided for the proposed extension area.

18 33. On November 3, 2004, AWC filed a letter indicating that sewer service will be
19 provided, where necessary, by the City of Coolidge.

20 CONCLUSIONS OF LAW

21 1. Applicant is a public service corporation within the meaning of Article XV of the
22 Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-252.

23 2. The Commission has jurisdiction over the Applicant and the subject matter of the
24 Application.

25 3. Notice of the Application was provided in accordance with the law.

26 4. There is a public need and necessity for water utility service in the proposed service
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28 ² Mr. Whitehead testified that the Coolidge rates are subject to a pending rate case currently before the Commission for which a Decision is anticipated in 2005.

1 areas described in Exhibit A.

2 5. Applicant is a fit and proper entity to receive an extension of its Certificate.

3 6. The Application to extend the Certificate for the area described in Exhibit A should be
4 granted subject to the conditions set forth in Findings of Fact Nos. 6 and 7 above.

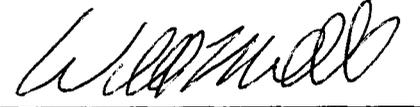
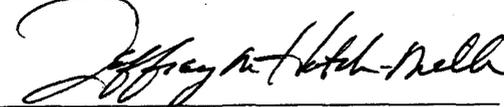
5 **ORDER**

6 IT IS THEREFORE ORDERED that the Application of Arizona Water Company for an
7 extension of its Certificate of Convenience and Necessity for the operation of a water utility in the
8 area more fully described in Exhibit A is hereby approved, provided that Arizona Water Company
9 complies with the conditions as set forth in Findings of Fact Nos. 6 and 7 hereinabove.

10 IT IS FURTHER ORDERED that in the event that Arizona Water Company does not timely
11 file copies of the required documentation as described in Findings of Fact No. 6 as required by the
12 preceding ordering paragraph, then the extension of its Certificate of Convenience and Necessity
13 shall be deemed to be null and void without further Order of the Arizona Corporation Commission.

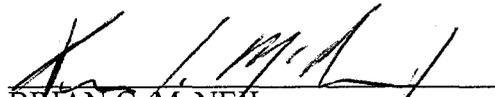
14 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

15 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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CHAIRMAN COMMISSIONER COMMISSIONER

18  
19 _____
COMMISSIONER COMMISSIONER

20 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
21 Secretary of the Arizona Corporation Commission, have
22 hereunto set my hand and caused the official seal of the
23 Commission to be affixed at the Capitol, in the City of Phoenix,
24 this 3rd day of Dec., 2004.

25 
BRIAN C. McNEIL
EXECUTIVE SECRETARY

26 DISSENT _____

28 DISSENT _____

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SERVICE LIST FOR: ARIZONA WATER COMPANY

DOCKET NO. W-01445A-04-0453

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Legal Description

Sections 6 and 7 of Township 6 South, Range 8 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

Together with:

Section 9, Section 10, The South Half of Section 12 and the Northwest quarter of Section 13, all in Township 5 South, Range 8 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

EXCEPT that portion of Section 10 lying within the Gila River Indian Reservation, described as follows:

BEGINNING at the Northwest corner of said Section 10;
Thence South $01^{\circ}35'$ East, a distance of 1,315.38 feet;
Thence North $89^{\circ}35'$ East, a distance of 2,661.12 feet;
Thence North $01^{\circ}44'$ West, a distance of 1,304.82 feet;
Thence South $89^{\circ}35'$ West, a distance of 2,653.20 feet to the POINT OF BEGINNING.